

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**ROBERT McDANIEL-ORTEGA, Jr.,**

**Petitioner,**

**vs.**

**No. CIV 97-0672 JP/JHG**

**TIM LeMASTER, Warden,**

**Respondent.**

**MAGISTRATE JUDGE'S PROPOSED FINDINGS  
AND RECOMMENDED DISPOSITION**

**NOTICE**

Within ten days after a party is served with a copy of these proposed findings and recommended disposition that party may, pursuant to **28 U.S.C. § 636 (b)(1)**, file written objections to such proposed findings and recommended disposition. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.

**PROPOSED FINDINGS**

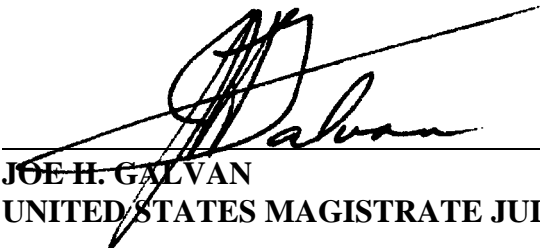
1. This habeas corpus action, brought pursuant to **28 U.S.C. § 2254**, is before the Court on Respondent's Motion to Dismiss filed July 28, 1997. Petitioner (McDaniel-Ortega) contends he was denied the opportunity to earn post-sentence good time credits because the jail director did not timely carry out the sentencing courts' transfer orders in the cases styled and numbered *State of New Mexico v. Robert McDaniel-Ortega*, No. CR-93-30, Third Judicial District, County of Dona Ana, State of New Mexico and *State of New Mexico v. Robert McDaniel-Ortega*, No. CR-93-143,

**Fifth Judicial District, County of Chaves, State of New Mexico.**

2. Respondent argues the Petition should be dismissed because it fails to raise a cognizable habeas corpus claim. In general, the transfer of an inmate from one state facility to another does not implicate due process, even if the transfer results in a substantial detrimental change in the prisoner's living conditions. *Meachum v. Fano*, 427 U.S. 215, 224-225(1976). Furthermore, there is no due process interest in the opportunity to earn good time credits. *Antonelli v. Sheahan*, 81 F.3d 1422, 1431 (7th Cir. 1995)(citing *Sandin v. Conner*, 515 U.S. 472, 487 (1995)). The Petition fails to raise a cognizable habeas corpus claim. McDaniel-Ortega's arguments to the contrary are without merit. The motion to dismiss should be granted.

**RECOMMENDED DISPOSITION**

Respondent's Motion to Dismiss should be granted.



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**JOE H. GALVAN**  
**UNITED STATES MAGISTRATE JUDGE**